

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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In Re: Methyl Tertiary Butyl Ether ("MTBE")
Products Liability Litigation

Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88
ECF Case

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This document relates to the following case:

City of New York v. Amerada Hess Corp., et al.
Case No. 04 Civ. 3417

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**PLAINTIFF CITY OF NEW YORK'S NOTICE OF MOTION AND
MOTION *IN LIMINE* NO. 5 TO EXCLUDE EVIDENCE OR ARGUMENT
THAT MTBE DOES NOT REQUIRE REMEDIATION AT LEVELS
ABOVE THE MCL**

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on May 11, 2009, at the United States Courthouse at 500 Pearl Street, New York, New York 10007, before the Hon. Shira A. Scheindlin, United States District Judge, Plaintiff the City of New York hereby moves this Court *in limine* to enter an Order that Defendants shall not make any argument or offer any evidence that the presence of MTBE in drinking water wells at levels above the maximum contaminant level ("MCL") of 10 parts per billion ("ppb") does not require treatment.

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WHEREFORE, Plaintiff respectfully requests that the Court enter an Order granting the relief set forth in this Motion. In support of its Motion, Plaintiff relies upon the Memorandum of Law and the Request for Judicial Notice filed concurrently herewith, and the pleadings, records and files in this action. Plaintiff requests an oral hearing on this Motion.

Dated: San Francisco, California
May 11, 2009

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the following documents were served on Liaison Counsel via Electronic Mail, and on all counsel of record by posting them directly to CM/ECF and LexisNexis File & Serve on the 11th day of May, 2009:

1. PLAINTIFF CITY OF NEW YORK'S NOTICE OF MOTION AND MOTION *IN LIMINE* NO. 5 TO EXCLUDE EVIDENCE OR ARGUMENT THAT MTBE DOES NOT REQUIRE REMEDIATION AT LEVELS ABOVE THE MCL
2. PLAINTIFF CITY OF NEW YORK'S MEMORANDUM OF LAW IN SUPPORT OF MOTION *IN LIMINE* NO. 5 TO EXCLUDE EVIDENCE OR ARGUMENT THAT MTBE DOES NOT REQUIRE REMEDIATION AT LEVELS ABOVE THE MCL
3. REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF CITY OF NEW YORK'S *IN LIMINE* NO. 5 TO EXCLUDE EVIDENCE OR ARGUMENT THAT MTBE DOES NOT REQUIRE REMEDIATION AT LEVELS ABOVE THE MCL
4. [PROPOSED] ORDER GRANTING PLAINTIFF CITY OF NEW YORK'S MOTION *IN LIMINE* NO. 5 TO EXCLUDE EVIDENCE OR ARGUMENT THAT MTBE DOES NOT REQUIRE REMEDIATION AT LEVELS ABOVE THE MCL



KRISTIN MEYERS